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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,700	01/30/2001	Hiroshi Okamoto	010064	9493
23850	7590	02/09/2004		
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP 1725 K STREET, NW SUITE 1000 WASHINGTON, DC 20006			EXAMINER AHMED, SHEEBA	
			ART UNIT	PAPER NUMBER
			1773	9

DATE MAILED: 02/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS9

Office Action Summary

Application No.

09/771,700

Applicant(s)

OKAMOTO ET AL.

Examiner

Sheeba Ahmed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6,9 and 10 is/are allowed.
- 6) ☒ Claim(s) 5,7,8 and 11-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Amendments to claims 5, 6, and 8-10 have been entered in the above-identified application. Claims 1-4 have been cancelled. New claims 11-14 have been added.

Claims 5-14 are now pending.

Claim Objections

2. The top of Page 5 recites the phrase "functional resin composition is a filament or secondary products from the filament". This phrase is not associated with any claims and hence should be deleted.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5, 7, 8, and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okamoto et al. (US 6,156,817) in view of Cochran II, et al. (US 6,211,500 B1).

Okamoto et al. disclose a functional form, i.e., a molded article, comprising a resin compounded with a functional component, having antimicrobial properties or deodorizing properties, selected from the group consisting of a catechin, a saponin, a

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tea-leaf powder, a tea-leaf extract and tannin and a ceramics component (Column 2, lines 25-26 and 36-42). The functional component and the ceramics component are in a state of composite particles wherein these components have been compounded together (Column 2, lines 58-64). The ceramics component may be a combination of ceramics particles, an inorganic sintering aid and an inorganic flocculent, a combination of an inorganic sintering aid and an inorganic flocculent or a water swelling clay mineral (Column 3, lines 55-61 and Column 4, lines 44-46). The shape of the functional form can be a filament (Column 8, lines 15-16) and the molding is useful as a filter for air conditioners, air cleaners and vacuum cleaners (Column 8, lines 30-35).

Okamoto et al. do not specifically state that their functional form, i.e., the functional composition or the functional molding, comprises a finely divided tabular mineral.

However, Cochran, II et al. disclose a melt processed, molded composition comprising polyolefin and a platy inorganic mineral such as mica (Column 3, lines 28-32, Column 4, lines 23-30 and Column 8, lines 40-50). The mica provides a reinforcement effect and is preferable compared to other inorganic fibrous fillers given that less weight % of mica is required to obtain the same effect as with other inorganic fillers. The mica is easily cleaved to obtain leaf-like flakes and is much softer than other inorganic fillers, has a slippery tactile feel and low abrasiveness compared to other fillers (Column 9, lines 50-65). Accordingly, it would have been obvious to one having ordinary skill in the art to add mica to the functional composition and molding disclosed

by Okamoto et al. given that Cochran II, et al. specifically teach that doing so provides a reinforcement effect to the molding.

Response to Arguments

4. The rejections of claims 5, 7, and 8 under 35 U.S.C. 103(a) as being unpatentable over Honda et al. (US 6,465,114 B1) in view of Panush (US 5,830,567) has been withdrawn in view of the amendments made to claim 5 and the arguments presented in Paper No. 8.

However, the rejection of claims 5, 7, and 8 (as well as new claims 11-14) under 35 U.S.C. 103(a) as being unpatentable over Okamoto et al. (US 6,156,817) in view of Cochran II, et al. (US 6,211,500 B1) has been re-instated. In the Amendment submitted on February 24, 2003 (Paper No. 4), the Applicants admit that Okamoto '817 is a reference under 35 USC 102(a) and allege that this reference can be removed by perfecting foreign priority based on Japanese Application 2000-025720 filed February 2, 2000. However, Applicants claim of foreign priority has not been perfected given that a Verified Translation of the priority document has not been received by the Patent Office.

Allowable Subject Matter

5. Claims 6, 9, and 10 are allowable.

The following is a statement of reasons for the indication of allowable subject matter:

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Claim 6 recites a functional molding containing a resin, a plant-originated functional component, a tabular mineral having a low hardness and cleavage, and a ceramics component wherein the functional molding is a core-sheath joining type or bimetal joining type molding constructed of an internal component X and an external component Y wherein the resin components of the internal component X and the external component Y may be a single resin or a combination of two resins and wherein the plant-originated functional component A, the tabular mineral and the ceramics component are formulated into both the internal component X and the external component Y. Claims 9 and 10 incorporate all the limitations of claims 5 and 6.

The closest prior art is US 6,423,408 B2 however the rejection of claims 6, 9, and 10 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3 and 4 of U.S. Patent No. 6,423,408 B2 in view of Cochran II, et al. (US 6,211,500 B1) has been overcome by the filing of a terminal disclaimer.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheeba Ahmed whose telephone number is (571)272-1504. The examiner can normally be reached on Mondays and Thursdays from 8am to 6pm.



Sheeba Ahmed
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February 6, 2003